

AMENDED IN ASSEMBLY JUNE 19, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 25, 2006

AMENDED IN SENATE APRIL 18, 2006

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1629

Introduced by Senator Speier

(Principal coauthor: Assembly Member Lieber)

(Coauthor: Assembly Member Karnette)

February 24, 2006

An act to add Chapter 7 (commencing with Section 12500) to Part 2 of Division 2 of the Public Contract Code, relating to state contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1629, as amended, Speier. Public contracts: the Federal Laboratory Contracting Act.

The State Contract Act governs contracting between state agencies and private contractors, and sets forth requirements for the procurement of materials, supplies, equipment, and services by state agencies. Existing law sets out the various responsibilities of the Department of General Services, and other state agencies in overseeing and implementing state contracting procedures and policies.

This bill would enact the Federal Laboratory Contracting Act to modify the existing contracting procedures and policies to authorize a state agency that contracts with a federally funded research and

development center, as defined, or a field center, as defined, to make contract payments in advance, indemnify, to the extent permitted by state law, the center, as provided, and reimburse the center for the actual costs incurred in performing the contracted services. This bill would also require the Governor to designate the Secretary of State and Consumer Services as the state representative for purposes of communicating and negotiating with the representatives of the United States Department of Energy, the National Aeronautics and Space Administration (NASA), federally funded Department of Energy and NASA research and development centers, and NASA field centers, as provided. *This bill would specify that the Regents of the University of California would not be considered a state agency for the purposes of this act, as provided.*

This bill would set forth legislative findings and declarations regarding existing policies and procedures governing state contracts with federally funded Department of Energy and NASA research and development centers and NASA field centers located in California.

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This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 7 (commencing with Section 12500) is
2 added to Part 2 of Division 2 of the Public Contract Code, to
3 read:

4
5 CHAPTER 7. THE FEDERAL LABORATORY CONTRACTING ACT

6
7 12500. This chapter shall be known and may be cited as the
8 Federal Laboratory Contracting Act.

9 12501. The Legislature finds and declares all of the
10 following:

11 (a) Technological advances are an important part of
12 California's economy and, therefore, it would be wise for state
13 agencies to contract, in a facile and efficient manner, with
14 federally funded Department of Energy (DOE) and National
15 Aeronautics and Space Administration (NASA) research and

1 development centers and NASA field centers located in
2 California that are often at the forefront of science and
3 technology.

4 (b) As the major funding agency and owner of several research
5 and development centers located in California, DOE allows
6 outside parties to contract with the centers but requires the
7 centers, when initiating and finalizing any contracts with outside
8 parties, to adhere to rigorous policies and procedures specified by
9 federal laws and regulations. NASA adheres to similar federal
10 laws and regulations when initiating and finalizing contracts
11 between its research and development centers or field centers in
12 California and outside parties. The State of California has its own
13 laws, regulations, and procedures governing state contracts. The
14 research and development centers and field centers owned or
15 owned and operated by DOE and NASA have attempted to
16 contract with state agencies and departments in California but
17 have had minimal success. Conflicting provisions in federal and
18 state laws, regulations, and policies, and seemingly unachievable
19 compromises appear to be the major limiting factors in the
20 successful negotiation of contracts between the federally funded
21 centers and California state agencies and departments.

22 12501.5. (a) The Governor shall designate the Secretary of
23 State and Consumer Services as the state's representative for
24 purposes of communicating and negotiating with representatives
25 of the United States Department of Energy, National Aeronautics
26 and Space Administration, federally funded DOE and NASA
27 research and development centers in California, and NASA field
28 centers in California regarding any issue that may affect a
29 contractual relationship between the state and these federal
30 entities. The Secretary of State and Consumer Services may
31 delegate this responsibility to the Director of the Department of
32 General Services if the secretary views such delegation as
33 necessary to advance the successful negotiation of contracts
34 between the state and one or more of those federal entities.

35 (b) The Secretary of State and Consumer Services or his or her
36 designee shall develop policies and procedures to encourage and
37 enable the contracting process with federally funded DOE and
38 NASA research and development centers and NASA field
39 centers and shall create a master contract that is available for use
40 by any state agency or department in negotiating a contract with

1 one of these centers. *The Regents of the University of California*
2 *shall not be considered a state agency for the purposes of this*
3 *chapter, and specifically shall not be covered as prime*
4 *contractor with the DOE for management of DOE laboratories.*

5 12502. (a) Notwithstanding any other law, a state agency that
6 enters into a ~~contract~~ *prime contract with a federally funded*
7 *DOE or NASA research and development center or NASA field*
8 *center, or that enters into a prime contract with another entity*
9 *that, in turn, issues a subcontract with a federally funded DOE or*
10 *NASA research and development center or a NASA field center*
11 *located in California may, if requested by the contracting party,*
12 *do any of the following:*

13 (1) Make contract payments to the center for contracted
14 services in advance.

15 (2) To the extent permitted by state law, indemnify the center
16 with respect to product liability, intellectual property, and general
17 liability claims arising out of the activities to be carried out by
18 the center pursuant to the contract.

19 (3) Reimburse the center for the actual costs incurred by the
20 center in rendering its services under the contract with the state
21 agency, up to the contract ceiling amount.

22 (b) For purposes of this chapter:

23 (1) “Federally funded research and development center”
24 means a federally funded research and development center as
25 defined in Subpart 2.1 of Part 2 of Subchapter A of Chapter 1 of
26 Title 48 of the Code of Federal Regulations.

27 (2) “NASA field center” means a field center identified as
28 such by NASA and authorized by Title III of the Space Act of
29 1958.

30 (c) A state agency shall not audit the records of any federally
31 funded DOE or NASA research and development center, or a
32 NASA field center, but it may rely on the services of a cognizant
33 federal audit agency, including the Defense Contract Audit
34 Agency, the United States Government Accounting Office or the
35 United States Departmental Inspector General to satisfy its
36 auditing requirements.

37 SEC. 2. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety
39 within the meaning of Article IV of the Constitution and shall go
40 into immediate effect. The facts constituting the necessity are:

1 In order for California state agencies and departments to be
2 able to contract, in a facile and efficient manner, with federally
3 funded Department of Energy and NASA research and
4 development centers and NASA field centers located in this state
5 for purposes of developing new technologies that may protect
6 public health and welfare, it is necessary that this act take effect
7 immediately.

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